



Records Retention and Management Audit
Audit Report 17-A002

December 12, 2017

Executive Summary

The Division of Emergency Management (Division), Office of Inspector General conducted an audit of the Division's records management and retention processes to evaluate efficiency, effectiveness, and compliance with applicable laws and rules. Our objectives were to:

- Determine compliance with state and federal laws, rules, regulation, and guidance; and
- Identify records maintained by the Division.

Based on our examination, we concluded that the Division has not fully implemented a records management program as required by 257.36(5)(b), Florida Statutes. Specifically:

- The Division is in compliance with the requirement in Section 257.36(5)(a), F.S., to designate a Records Management Liaison Officer (RMLO); however, changes are needed to better align the functions of the Division's Records Management Liaison Officer position with the functions outlined in Department of State guidance.
- The Division has not conducted an inventory of its existing records or ensured that records are disposed of when their retention requirements have been met and the records are no longer needed.
- The Division has not adopted formal, written records management policies and procedures.

We recommend:

- The Division task the RMLO with more fully implementing the Division's records management program.

- Once the Division's RMLO is tasked with more fully implementing a records management program, as recommended in Finding 1, the RMLO ensure the Division:
 - Conducts an inventory of its existing records;
 - Identifies existing retention schedules and/or establishes new retention schedules that can be applied to the records inventoried; and
 - Disposes of existing records that have met their retention requirements and are no longer needed.
- The RMLO ensure the Division develops and adopts formal, written records management policies and procedures.

We would like to thank and acknowledge Division staff for their cooperation and assistance during this audit.

Introduction

The Division's Office of Inspector General (OIG), conducted an audit of the Division's records management and retention processes to evaluate efficiency, effectiveness, and compliance with applicable laws and rules. Our objectives were to:

- Determine compliance with state and federal laws, rules, regulation, and guidance; and
- Identify records maintained by the Division.

The scope of the audit included the Division's processes and activities related to managing and retaining records.

Background

Chapter 257, F.S., vests in Florida's Department of State (DOS) the authority to oversee the records management functions of state and local government agencies. DOS has issued various guidance documents, such as record management handbooks, to assist government agencies in records management. DOS also offers to provide technical assistance to government agencies, upon request, for records management.

257.36(5)(b), F.S., requires government agencies to "establish and maintain an active and continuing program for the economical and efficient management of records." DOS guidance outlines the following tasks for agencies to initiate and sustain records management programs:

- 1. Designate a Records Management Liaison Officer (RMLO);**
- 2. Conduct an inventory of existing records;**
- 3. Identify existing retention schedules and/or establish new retention schedules that can be applied to the records inventoried;**
- 4. Dispose of existing records that have met their retention requirements and are no longer needed; and**
- 5. Develop formal, written records management policies and procedures.**

Additional information about each of these responsibilities is provided below.

Designate an RMLO

One of the first responsibilities in initiating a records management program is the

designation of an RMLO. Agencies are required by Section 257.36(5)(a), F.S., to designate an RMLO.

The RMLO serves as an agency's primary point of contact with DOS's Records Management Program. Because the RMLO is in close contact with DOS, the RMLO is an important source of information, within the agency, with regard to DOS policies and procedures.

The RMLO may perform a variety of records management functions, including:

- Inventorying agency records;
- Working with DOS to establish new records retention schedules and to ensure the appropriate disposition of records eligible for destruction;
- Training and advising agency staff in records management practices;
- Participating in agency decision-making for issues such as microfilming, digital imaging, storage, and disposal;
- Working with agency information technology staff to provide input on records management requirements when the agency is designing or enhancing automated systems that will contain public records;
- Responding to public questions regarding agency records and records management practices; and
- Reporting annually to DOS regarding the agency's compliance with records management statutes and rules.

To designate an RMLO, DOS requires agencies to submit an RMLO designation form indicating who will be the agency's RMLO.

Conduct an Inventory of Existing Records

An effective records management program requires an inventory of records maintained by the agency. Agencies should inventory all of their records, regardless of format.

An inventory might take many forms and can be as detailed as the agency requires, but at minimum should identify and describe each record series created and maintained by the agency. Rule 1B-24, Florida Administrative Code, defines a record series as:

...a group of related public records arranged under a single filing arrangement or kept together as a unit (physically or intellectually) because they consist of the same form, relate to the same subject or function, result from the same activity, document a specific type of transaction, or have some other relationship arising from their creation, receipt, or use.

Examples of series might be personnel files, project research files, equipment maintenance and repair records, or procurement files. Each record series might contain

records in a variety of forms and formats that document a particular program, function, or activity of the agency.

The following information should be compiled for each record series:

- Record series title;
- Description;
- Inclusive dates;
- Volume;
- Retention; and
- Vital records.

More information on conducting a records inventory may be found in DOS's *Basics of Records Management* and *Electronic Records and Records Management Practices* handbooks. The handbooks include DOS's "Records Inventory Worksheet", which may be used during the inventory process. The "Records Inventory Worksheet" is included in Appendix 1 of this report.

DOS also offers technical assistance to agencies, upon request, for planning and conducting records inventories.

Identify and Establish Retention Schedules

After an agency has inventoried all of its records, it should identify existing retention schedules or establish new retention schedules that can be applied to those records.

A records retention schedule describes a record series and sets a minimum period of time for which the records must be retained before final disposal of the records may occur. There are two types of retention schedules: General Records Schedules and Individual Records Schedules.

General Records Schedules establish retention requirements for records common to several or all government agencies, while Individual Records Schedules establish retention requirements for records that are unique to particular agencies.

DOS issues General Records Schedules, such as the *General Records Schedule GS1-SL for State and Local Government Agencies (GS1-SL)*, which may be used by all Florida state and local agencies in determining their records retention requirements. For records not covered by *GS1-SL*, agencies must establish Individual Records Schedules with DOS. To establish an Individual Records Schedule, an agency must submit a "Request for Records Retention Schedule" (Form LS5E105REff.209) to DOS for review and approval.

Dispose of Records

Agencies must comply with two general requirements for disposing of public records:

- Agencies must ensure that the records have met all retention requirements; and
- Agencies must internally document the disposal of any public records in their custody.

Section 257.36(6), F.S., states that “[a] public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by [DOS].” This means that all records must be covered by a retention schedule before disposal can occur.

Retention schedules establish the minimum length of time a record series must be maintained. Retention schedules do not tell agencies when they *must* dispose of records; they tell agencies how long records must be retained before the agencies *may* dispose of the records. Agencies have the discretion to retain records beyond the minimum retention requirements if needed for administrative, legal, or other purposes. *However, DOS highly recommends that agencies dispose of records that have met their retention requirements and are no longer needed.*

Disposal may be by physical destruction, transfer to another agency, or in the case of electronic records, erasure. State agency records appraised by DOS staff as having long-term historical value shall be transferred to the State Archives.

An agency’s internal documentation of the disposal of public records can be done using the “Records Disposition Document” available on DOS’s Records Management Program Website, or by using any form of documentation that is convenient for the agency, so long as it ensures that required information is maintained. For each record series being disposed of, agencies shall identify and document the following:

- Records retention schedule number;
- Item number;
- Record series title;
- Inclusive dates of the records;
- Volume in cubic feet for paper records; for electronic records, record the number of bytes and/or records and/or files if known, or indicate that the disposed records were in electronic form; and
- Disposition action (manner of disposal) and date¹.

¹ Agencies are not required to document the disposal of records with a retention of “Retain until obsolete, superseded or administrative value is lost” (OSA) except for records that have been microfilmed or scanned as part of a retrospective conversion project in accordance with Rules 1B-26.0021 or 1B-26.003, Florida Administrative Code, where the microfilm or electronic version will serve as the record (master) copy.

Develop Formal, Written Records Management Policies and Procedures

Developing and adhering to formal, written records management policies and procedures is the best way to ensure that records management requirements are met in a consistent, effective, and efficient manner. Formal records management policies and procedures will help to minimize an agency's vulnerability to potential public records litigation and are also useful tools in training new employees. Agencies should therefore work closely with their legal office in developing records management policies.

Common components of records management policies and procedures include:

- Inventory procedures;
- Filing and storage;
- Retention;
- Disposal;
- Legal holds;
- Electronic records; and
- Public records requests.

DOS offers technical assistance, upon request, to agencies developing records management policies and procedures. DOS's internal records management policy is provided in its *Basics of Records Management* handbook as an example. The Florida Department of Transportation's records management policy is also available online as an example.

Results of Audit

The objectives of this audit were to:

- Determine compliance with state and federal laws, rules, regulation, and guidance; and
- Identify records maintained by the Division.

Based on our examination, we concluded that the Division has not fully implemented a records management program as required by 257.36(5)(b), F.S.

Fully implementing a records management program will require the Division to:

- Designate an RMLO as required by Section 257.36(5)(a), F.S.;
- Ensure existing records are inventoried, scheduled, and disposed of once they have met their retention requirements and are no longer needed; and
- Adopt formal, written records management policies and procedures.

The Division is in compliance with the requirement in Section 257.36(5)(a), F.S., to designate an RMLO. The Division has established an RMLO under the supervision of its Chief Legal Counsel, and has submitted an RMLO designation form to DOS indicating who will be the Division's RMLO. However, changes are needed to better align the functions of the RMLO position with the functions outlined in DOS guidance.

The Division has not conducted an inventory of its existing records or ensured that records are disposed of when their retention requirements have been met and the records are no longer needed.

The OIG conducted a survey of Division management and staff to identify records maintained by the Division. The results of the survey may be useful in fully implementing the Division's records management program. The results of the survey have been provided to management.

The Division has not adopted formal, written records management policies and procedures.

Findings and Recommendations

Finding 1 – RMLO Functions

DOS guidance provides that the RMLO may perform a variety of records management functions for the Division, including:

- Inventorying Division records;
- Working with DOS to establish new records retention schedules and to ensure the appropriate disposition of records eligible for destruction;
- Training and advising Division staff in records management practices;
- Participating in Division decision-making for issues such as microfilming, digital imaging, storage, and disposal;
- Working with Division information technology staff to provide input on records management requirements when the Division is designing or enhancing automated systems that will contain public records;
- Responding to public questions regarding Division records and records management practices; and
- Reporting annually to the DOS regarding the Division’s compliance with records management statutes and rules.

Currently, the main function of the Division’s RMLO position is to send Division records to DOS for storage and destruction. The RMLO also has been tasked with sorting through a large quantity of paper records left by a former Division employee, and preventing boxes of records from piling up in Division hallways.

Changes are needed to better align the functions of the Division’s RMLO position with the functions outlined in DOS guidance. Specifically, the RMLO should be tasked with more fully implementing the Division’s records management program.

Recommendation

We recommend that the Division task the RMLO with more fully implementing the Division’s records management program.

Management Response

Currently, the Division’s records management program satisfies the minimum requirements contained in:

- *Section 257.36, Florida Statutes; and,*
- *Chapter 1B-24, Florida Administrative Code.*

Additionally, there has been extensive debate within the Division as to whether we are in full compliance with the Department of State publication entitled “Basics of Records Management.” Most of the debate centers on whether the document focuses on “requirements,” or whether it deliberately focuses on “suggested best practices” in an effort to provide agencies with maximum flexibility in its execution of an “efficient and effective program.” While I find this issue to be internally unresolved, I find it to be irrelevant.

The Division always seeks to improve our processes, and this is no different. Whether required or best practices, the Division will diligently seek counsel from the guidance contained within the above documents and this audit to improve its records program.

Just over a year ago this program was identified as one that could use improvement. Since that time, the Division moved the RMLO position from its External Affairs section to the Office of General Counsel; the following tasks have since been accomplished:

- *A dedicated RMLO was designated;*
- *Over 750 cubic feet of records were sent to storage;*
- *Over 600 cubic feet of records were destroyed;*
- *Bureaus have been tasked with identifying records for storage and destruction; and,*
- *The RMLO has begun efforts to coordinate with the bureaus to further enhance the Division’s Record Management Program.*

The Division appreciates the recommendations included within the audit report and will continue to look for ways to improve the Records Management Program in accordance with guidance provided by this audit and the Department of State.

Estimated Completion Date: December 2018

Finding 2 – Records Management

Section 257.36(5)(b), F.S., requires the Division to establish and maintain an active and continuing program for the economical and efficient management of records.

DOS guidance provides that an effective records management program requires an inventory of existing records maintained by the Division, regardless of format. After existing records have been inventoried, record retention schedules may be applied to those records. Once minimum retention periods have been met, the records may be disposed of in accordance with Florida statute and administrative code. DOS highly recommends that the Division dispose of records that have met their retention requirements and are no longer needed.

The Division has not fully implemented a records management program as required by 257.36(5)(b), F.S. Specifically, the Division has not conducted an inventory of its

existing records or ensured that records are disposed of when their retention requirements have been met and the records are no longer needed. The RMLO should ensure that these functions are carried out, as discussed in Finding 1.

Recommendation

We recommend that once the Division's RMLO is tasked with more fully implementing a records management program, as recommended in Finding 1, the RMLO ensure the Division:

- Conducts an inventory of its existing records;
- Identifies existing retention schedules and/or establishes new retention schedules that can be applied to the records inventoried; and
- Disposes of existing records that have met their retention requirements and are no longer needed.

Management Response

The Division will continue to enhance its existing Records Management Program by encouraging the records custodians within the various Bureaus to conduct an inventory of existing records and identify the retention schedule associated with each record.

Regarding the establishment of new retention schedules, the Division has consulted with the Department of State regarding an apparent conflict between a five-year retention schedule and a three-year limitation imposed by the Federal Government. The conflict deals with financial records and the express language of 2 CFR 200.333. Discussions with the Department of State are ongoing.

The Division appreciates the recommendations included within the audit report and will continue to look for ways to improve the Records Management Program in accordance with guidance provided by this audit and the Department of State.

Estimated Completion Date: December 2018

Finding 3 – Records Management Policies and Procedures

DOS guidance provides that developing and adhering to formal, written records management policies and procedures is the best way to ensure that records management requirements are met in a consistent, effective, and efficient manner. Formal records management policies and procedures will help to minimize the Division's vulnerability to potential public records litigation and are also useful tools in training new employees.

The Division has not developed formal, written records management policies and procedures. Without written policies and procedures, the likelihood is increased that the

Division's records will not be properly maintained in accordance with state and federal laws, rules, regulation, and guidance.

Recommendation

We recommend the RMLO ensure the Division develops and adopts formal, written records management policies and procedures.

Management Response

Currently, the Division relies on the General Records Schedules published by the Florida Department of State as well as the Government in the Sunshine Manual published by the Florida Attorney General.

The Division appreciates the recommendations included within the audit report and will continue to look for ways to improve the Records Management Program in accordance with guidance provided by this audit and the Department of State. Specifically, the Division will look to better incorporate this concept in Division policy.

Estimated Completion Date: December 2018

ATTACHMENT 1 - Purpose, Scope and Methodology

Pursuant to Section 20.055, Florida Statutes, the Division's Office of Inspector General conducts audits to promote accountability, integrity, and efficiency in government. This audit was conducted as part of the Office of Inspector General's annual work plan.

The scope of this audit included the Division's processes and activities related to managing and retaining records.

The purpose of the audit was to evaluate the Division's processes for maintenance and retention of records for efficiency, effectiveness, and compliance with applicable laws and rules. Specifically, our objectives were to:

- Determine compliance with state and federal laws, rules, regulation, and guidance; and
- Identify records maintained by the Division.

The methodology used to accomplish our objectives included:

- Reviewing applicable laws, rules, regulations, guidance, and procedures;
- Reviewing prior audit reports;
- Reviewing Division procedural documents;
- Examining Division RMLO designation documentation;
- Examining Division records management and disposal documentation;
- Administering a questionnaire to the Division's legal staff;
- Conducting a survey of Division management and staff;
- Reviewing related industry information; and
- Interviewing appropriate Division staff.

ATTACHMENT 2 - Audit Team and Statement of Accordance

Audit Team

Graham Markarian, Auditor
Amanda Campen, Audit Evaluation and Review Analyst
Mandi Cohen, Audit Director
Ronnie Atkins, CPA, CIA, CMA, CIG, Deputy Inspector General

Statement of Accordance

To promote accountability, integrity, and efficiency in government, the Division of Emergency Management's Office of Inspector General audits the Division of Emergency Management's programs, activities, and functions.

This audit engagement was conducted in accordance with applicable *International Standards for the Professional Practice of Internal Auditing* published by the Institute of Internal Auditors and *Principles and Standards for Offices of Inspectors General* published by the Association of Inspectors General.

ATTACHMENT 3 - Addressee and Distribution List

Wes Maul, Interim Director

Copies distributed to:

Jonathan Lord, Deputy Director

Michael Kennett, Deputy Director, Chief Legal Counsel

Leo Lachat, Deputy Director, Bureau Chief of Response

Eric W. Miller, Chief Inspector General

Sherrill F. Norman, Auditor General

APPENDIX 1 – DOS Records Inventory Worksheet

| RECORDS INVENTORY WORKSHEET | | | | |
|---|--|--|--|-----------|
| Department/Section | | Contact | | Phone No. |
| Location of Records Room File | | Schedule No. | | Item No. |
| Records Series Title | | | | |
| Record/File Title | | | | |
| Description (Contents, Purpose, and Use: Include form title and numbers, if any) | | | | |
| | | | | |
| | | | | |
| <input type="checkbox"/> Record Copy <input type="checkbox"/> Duplicate Copy | | | | |
| File Type <input type="checkbox"/> Subject <input type="checkbox"/> Case/Business Activity <input type="checkbox"/> Working Papers <input type="checkbox"/> Reference <input type="checkbox"/> Index | Cut-Off Date <input type="checkbox"/> Calendar Year <input type="checkbox"/> Fiscal Year <input type="checkbox"/> Anniversary <input type="checkbox"/> Continuous <input type="checkbox"/> Other _____ | Arrangement <input type="checkbox"/> Alphabetic by _____ <input type="checkbox"/> Alphanumeric by _____ <input type="checkbox"/> Numeric by _____ <input type="checkbox"/> Chronological by _____ <input type="checkbox"/> Other _____ | Authorization for Series <input type="checkbox"/> a. Statute <input type="checkbox"/> b. Regulations <input type="checkbox"/> c. Administrative _____ (Citation) | |
| Record Form <input type="checkbox"/> 8-1/2" x 11" paper (letter size) <input type="checkbox"/> 11" x 15" computer printouts <input type="checkbox"/> Computer disks <input type="checkbox"/> 8-1/2" x 14" paper (legal size) <input type="checkbox"/> 11" x 8-1/2" computer printouts <input type="checkbox"/> Compact disks <input type="checkbox"/> Bound books, catalogs <input type="checkbox"/> Roll microfilm <input type="checkbox"/> Computer tapes/cartridges <input type="checkbox"/> 3" x 5" Cards <input type="checkbox"/> Microfiche <input type="checkbox"/> Video tapes <input type="checkbox"/> 4" x 6" Cards <input type="checkbox"/> Other _____ <input type="checkbox"/> Optical disks | | | | |
| Electronic Records Filing a. What is the name of the system? b. Who owns the system? c. What operating system is needed to retrieve and view files? d. What application software is needed to retrieve and view files? e. What is the file format? (.doc, .xls, .tif, .rtf, etc.) f. What is current age of media on which records are stored? (1 year, 5 years, etc.) g. How quickly is this information usually needed? (within minutes, days, weeks, etc.) h. How often is this information accessed? (daily, weekly, monthly, etc.) i. What business activity do these records support? j. Are there any records related to these records? k. Do you need more assistance with assessing these records? | | | | |
| Current Holdings | | | | |
| Year (Inclusive Dates) | Paper Cubic Feet | Electronic Bytes/Item Count | Type Filing Equipment Used | Quantity |
| | | | | |
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APPENDIX 1 Continued – DOS Records Inventory Worksheet

| | | |
|--|---------------------------------|--------------------------|
| How active are these records? <input type="checkbox"/> Active (accessed frequently; weekly or immediately) <input type="checkbox"/> Semi-active (accessed periodically; monthly or less often) <input type="checkbox"/> Inactive (no need to retain in the active office area) | Who uses these records? | |
| Place an "X" in the proper column (If the answer is "yes", explain on the below.) | | |
| | YES | NO |
| 1. Is this Department the official record holder? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Are there copies of this record series (or major portion of it) in this Department? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Are there copies of this record series (or major portion of it) in another Department? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Does this record series contain information exempt from public access? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Is there any legal requirement affecting disposal of this record series? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Does this record series contain information subject to regulatory requirements? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Does this record series contain information subject to legal requirements? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Does this record series contain information used in the subject to audits? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Is this record series needed because of archival or historic interest? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Are these vital records? | <input type="checkbox"/> | <input type="checkbox"/> |
| Responses to Questions and Additional Comments | | |
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| Retention | Recommended Retention | |
| Inventoried By _____ Date _____ | Reviewed By _____ Date _____ | |